

## Senate Bill No. 1257

### CHAPTER 610

An act to add Section 25160.7 to the Health and Safety Code, and to amend Sections 2402.6, 32000.5, 32001, and 34501.12 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 16, 2002. Filed  
with Secretary of State September 17, 2002.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1257, Murray. Vehicles: hazardous materials transportation.

(1) Existing law prohibits any person from operating a commercial motor vehicle carrying hazardous materials unless that person has in his or her possession a valid commercial driver's license for the appropriate class of vehicle, and an endorsement from the Department of Motor Vehicles to permit the operation of the vehicle. Existing law relating to hazardous waste control imposes various requirements with respect to the transportation of hazardous waste. A violation of the above provisions is a crime, punishable as specified.

This bill would also provide that an authorized representative of the generator or facility operator that is responsible for loading hazardous waste into a transport vehicle shall, prior to that loading, ensure that the driver of the transport vehicle is in possession of the appropriate class of driver's license and any endorsement required to lawfully operate the transport vehicle with its intended load. By creating a new crime, this bill would impose a state-mandated local program upon local governments.

(2) Existing law provides that the Commissioner of the California Highway Patrol may adopt and enforce regulations and standards with respect to fuel containers and fuel systems on vehicles using compressed or liquefied natural and petroleum gasses, as specified.

This bill would also allow the commissioner to adopt and enforce regulations with respect to vehicles using compressed or liquefied hydrogen gas or liquid fuels that generate hydrogen gas.

(3) Existing law generally requires every motor carrier that transports for a fee in excess of 500 pounds of hazardous materials for which placards are required to be licensed, as specified. Existing law exempts from these licensure requirements specified persons hauling only hazardous waste who are registered under the Health and Safety Code.

This bill would provide that these persons hauling only hazardous waste who are registered under the Health and Safety Code shall nonetheless be subject to specified licensing provisions relating to

inspections, vehicle equipment, and compliance with specified laws and regulations.

(4) Existing law relating to the transportation of hazardous material makes it a crime for any motor carrier to direct the transportation of any shipment of hazardous material in any vehicle unless the vehicle and shipment meet specified requirements and the motor carrier holds a valid license for the transportation of hazardous material.

This bill would also require, with specified exceptions, (a) a vehicle or combination of vehicles transporting specified dangerous substances to be equipped with a 2-way communication device, maintained in good working order, that enables the driver to contact the personnel responsible for the safety operations of the motor carrier in the event of an emergency; and (b) a vehicle or combination of vehicles transporting specified dangerous substances that has an enclosed cargo body, as defined, to be locked and remain locked during transit of the hazardous materials so as to prevent any unauthorized entry; to be opened only during loading, unloading, or at the direction of a peace officer, an authorized employee of the department, or a person authorized as specified; and, if the vehicle has been left unattended for any length of time, that the driver verify that all locks are in place and note this in his or her log book. By creating new crimes, this bill would impose a state-mandated local program upon local governments.

(5) Existing law provides that the Department of Motor Vehicles shall inspect, at least every 25 months, every terminal of specified motor carriers, including vehicles transporting hazardous material.

This bill would require the department to place an inspection priority on those terminals operating vehicles transporting hazardous material.

(6) This bill would require the California Highway Patrol, by July 1, 2004, to prepare a report on the feasibility and cost-effectiveness of requiring all commercial motor vehicles required to display warning placards when transporting any amount of explosives, radiological materials, poisonous materials, or extremely hazardous waste to be equipped with global positioning devices.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



*The people of the State of California do enact as follows:*

SECTION 1. Section 25160.7 is added to the Health and Safety Code, to read:

25160.7. An authorized representative of the generator or facility operator that is responsible for loading hazardous waste into a transport vehicle shall, prior to that loading, ensure that the driver of the transport vehicle is in possession of the appropriate class of driver's license and any endorsement required to lawfully operate the transport vehicle with its intended load.

SEC. 2. Section 2402.6 of the Vehicle Code is amended to read:

2402.6. (a) The commissioner may adopt and enforce regulations and standards with respect to fuel containers and fuel systems on vehicles using compressed or liquefied natural gas and liquefied petroleum gas used in conjunction with a propulsion system certified by the State Air Resources Board as producing as few or fewer emissions as a State Air Resources Board approved system using compressed or liquefied natural gas or liquefied petroleum gas and with respect to the operation of vehicles using any of those fuels to ensure the safety of the equipment and vehicles and of persons and property using the highways.

(b) The commissioner may also adopt and enforce regulations and standards with respect to fuel containers and fuel systems on vehicles using compressed or liquefied hydrogen gas or liquid fuels that generate hydrogen gas.

(c) All motor vehicles with compressed natural gas fuel systems used for propulsion shall comply either with the regulations adopted pursuant to subdivision (a) or with National Fire Protection Administration Standard NFPA 52, "Compressed Natural Gas (CNG) Vehicular Fuel Systems" in effect at the time of manufacture, until standards for those fuel systems have been incorporated into the Federal Motor Vehicle Safety Standards by the United States Department of Transportation. Whenever those Federal Motor Vehicle Safety Standards include requirements for gaseous fuel systems, all motor vehicles with gaseous fuel systems which are manufactured after the effective date of those requirements shall comply with those requirements.

(d) It is an infraction for any person to operate any motor vehicle in violation of any provision of a regulation adopted pursuant to this section.

(e) The operator of every facility for filling portable liquefied natural gas or liquefied petroleum gas containers having a capacity of four pounds or more but not more than 200 pounds of gas shall post in a conspicuous place the regulations applicable to that filling procedure.

SEC. 3. Section 32000.5 of the Vehicle Code is amended to read:



32000.5. (a) Every motor carrier who directs the transportation of an explosive and, on and after July 1, 1982, any motor carrier who directs the transportation of a hazardous material, who is required to display placards pursuant to Section 27903, and every motor carrier who transports for a fee in excess of 500 pounds of hazardous materials of the type requiring placards pursuant to Section 27903, shall be licensed in accordance with the provisions of this code, unless specifically exempted by this code or regulations adopted pursuant to this code. This license shall be available for examination and shall be displayed in accordance with the regulations adopted by the commissioner.

(b) (1) Except as provided in Section 32001, this division shall not apply to any person hauling only hazardous waste, as defined in Section 25115 or 25117 of the Health and Safety Code, and who is registered pursuant to subdivision (a) of Section 25163 of the Health and Safety Code or who is exempt from that registration pursuant to subdivision (b) of that section.

(2) Motor carriers that are transporting a hazardous waste and are required to display placards pursuant to Section 27903 shall comply with all provisions of Section 32001 except paragraph (3) of subdivision (c) of that section.

(c) This division does not apply to implements of husbandry, as defined in Section 36000.

(d) This division does not apply to the hauling of division 1.3 explosives classified as special fireworks or to division 1.4 explosives classified as common fireworks by the United States Department of Transportation if those fireworks are transported by a motor carrier under the authority of, and in conformance with, a license issued to the motor carrier by the State Fire Marshal pursuant to Part 2 (commencing with Section 12500) of Division 11 of the Health and Safety Code. In that case, a copy of the license shall be carried in the vehicle and presented to any peace officer upon request.

SEC. 4. Section 32001 of the Vehicle Code is amended to read:

32001. (a) (1) Any authorized employee of the department may inspect any sealed or unsealed vehicle, container, or shipment subject to this division in maintenance facilities, terminals, or other public or private property to ascertain the quantity and kind of hazardous material and to ensure compliance with the provisions of this code and regulations adopted pursuant to this code.

(2) If a seal is opened for inspection, the department shall reseal any vehicle, container, or shipment prior to further transportation.

(b) Unless specifically stated, nothing contained in this division shall be deemed to exempt any vehicle transporting a hazardous material



subject to this division or the operator or any other person from other provisions of this code.

(c) No motor carrier shall direct the transportation of any shipment of a hazardous material in any vehicle unless all of the following are complied with:

(1) The vehicle is equipped as required by this code and applicable regulations adopted pursuant to law.

(2) The shipment complies with laws and regulations pertaining to the shipment or transportation of hazardous material.

(3) The motor carrier holds a valid license for the transportation of hazardous materials.

(4) (A) A vehicle or combination of vehicles required to display placards pursuant to Section 27903 is equipped with a two-way communication device, maintained in good working order, that enables the driver to contact the personnel responsible for the safety operations of the motor carrier in the event of an emergency.

(B) For the purposes of this section, “two-way communication device” means a radio, cellular telephone, or other similar device that permits communication between the driver and personnel responsible for the safety operations of the motor carrier.

(5) (A) The enclosed cargo body, when the display of placards is required pursuant to Section 27903, shall be locked and remain locked during transit of the hazardous materials so as to prevent any unauthorized entry and shall be opened only during loading, unloading, or at the direction of a peace officer, an authorized employee of the department, or a person authorized pursuant to Section 25185 of the Health and Safety Code.

(B) A driver transporting hazardous material in a locked cargo body shall verify that all locks are in place if the vehicle has been left unattended for any length of time. Each driver shall make a notation in his or her log book of the time and date that the verification occurred.

(C) For the purposes of this section, “cargo body” means a fully enclosed area that is an integral part of the vehicle and designed to encapsulate the entire load, such as a van body or an intermodal freight container, and does not mean a tank or flatbed type of vehicle.

(d) The commissioner may issue exemptions from the provisions of this section.

(e) Nothing in this section shall limit the ability of other state or local agencies to carry out their regulatory, enforcement, or emergency response duties under other provisions of law.

SEC. 5. Section 34501.12 of the Vehicle Code is amended to read:

34501.12. (a) Notwithstanding Section 408, as used in this section and Sections 34505.5 and 34505.6, “motor carrier” means the



registered owner of any vehicle described in subdivision (a), (b), (e), (f), or (g) of Section 34500, except in the following circumstances:

(1) The registered owner leases the vehicle to another person for a term of more than four months. If the lease is for more than four months, the lessee is the motor carrier.

(2) The registered owner operates the vehicle exclusively under the authority and direction of another person. If the operation is exclusively under the authority and direction of another person, that other person may assume the responsibilities as the motor carrier. If not so assumed, the registered owner is the motor carrier. A person who assumes the motor carrier responsibilities of another pursuant to subdivision (b) shall provide to that other person whose motor carrier responsibility is so assumed, a completed copy of a department form documenting that assumption, stating the period for which responsibility is assumed, and signed by an agent of the assuming person. A legible copy shall be carried in each vehicle or combination of vehicles operated on the highway during the period for which responsibility is assumed. That copy shall be presented upon request by any authorized employee of the department. The original completed departmental form documenting the assumption shall be provided to the department within 30 days of the assumption. If the assumption of responsibility is terminated, the person who had assumed responsibility shall so notify the department in writing within 30 days of the termination.

(b) (1) A motor carrier may combine two or more terminals for purposes of the inspection required by subdivision (d) subject to all of the following conditions:

(A) The carrier identifies to the department, in writing, each terminal proposed to be included in the combination of terminals for purposes of this subdivision prior to an inspection of the designated terminal pursuant to subdivision (d).

(B) The carrier provides the department, prior to the inspection of the designated terminal pursuant to subdivision (d), a written listing of all its vehicles of a type subject to subdivision (a), (b), (e), (f), or (g) of Section 34500 that are based at each of the terminals combined for purposes of this subdivision. The listing shall specify the number of vehicles of each type at each terminal.

(C) The carrier provides to the department at the designated terminal during the inspection all maintenance records and driver records and a representative sample of vehicles based at each of the terminals included within the combination of terminals.

(2) If the carrier fails to provide the maintenance records, driver records, and representative sample of vehicles pursuant to subparagraph (C) of paragraph (1), the department shall assign the carrier an



unsatisfactory terminal rating and require a reinspection to be conducted pursuant to subdivision (h).

(3) For purposes of this subdivision, the following terms have the meanings given:

(A) “Driver records” includes pull notice system records, driver proficiency records, and driver timekeeping records.

(B) “Maintenance records” includes all required maintenance, lubrication, and repair records and drivers’ daily vehicle condition reports.

(C) “Representative sample” means the following, applied separately to the carrier’s fleet of motortrucks and truck tractors and its fleet of trailers:

Fleet Size	Representative Sample
1 or 2	All
3 to 8	3
9 to 15	4
16 to 25	6
26 to 50	9
51 to 90	14
91 or more	20

(c) Each motor carrier who, in this state, directs the operation of, or maintains, any vehicle of a type described in subdivision (a) shall designate one or more terminals, as defined in Section 34515, in this state where vehicles can be inspected by the department pursuant to paragraph (4) of subdivision (a) of Section 34501 and where vehicle inspection and maintenance records and driver records will be made available for inspection.

(d) (1) The department shall inspect, at least every 25 months, every terminal, as defined in Section 34515, of any motor carrier who, at any time, operates any vehicle described in subdivision (a).

(2) The department shall place an inspection priority on those terminals operating vehicles listed in subdivision (g) of Section 34500.

(3) As used in this section and in Sections 34505.5 and 34505.6, subdivision (f) of Section 34500 includes only those combinations where the gross vehicle weight rating (GVWR) of the towing vehicle exceeds 10,000 pounds, but does not include a pickup truck, and subdivision (g) of Section 34500 includes only those vehicles transporting hazardous material for which the display of placards is required pursuant to Section 27903, a license is required pursuant to





Section 32000.5, or for which hazardous waste transporter registration is required pursuant to Section 25163 of the Health and Safety Code. Historical vehicles, as described in Section 5004, vehicles that display special identification plates in accordance with Section 5011, implements of husbandry and farm vehicles, as defined in Chapter 1 (commencing with Section 36000) of Division 16, and vehicles owned or operated by an agency of the federal government are not subject to this section or to Sections 34505.5 and 34505.6.

(e) (1) It is the responsibility of the motor carrier to schedule with the department the inspection required by subdivision (d). The motor carrier shall submit an application form supplied by the department, accompanied by the required fee. The fee, which is nonrefundable, is four hundred dollars (\$400) per terminal, except in the case of an owner-operator, or a nonregulated motor carrier who owns, leases, or otherwise operates not more than one heavy power unit and not more than three towed vehicles described in subdivision (a), (b), (e), (f), or (g) of Section 34500, for which the fee shall be one hundred dollars (\$100). Federal, state, and local public entities are exempt from the fee requirements of this section.

(2) Except as provided in paragraph (4), the inspection term for each inspected terminal of a motor carrier shall expire 25 months from the date the terminal receives a satisfactory compliance rating, as specified in subdivision (h). Applications and fees for subsequent inspections shall be submitted not earlier than nine months and not later than seven months before the expiration of the motor carrier's then current inspection term. If the motor carrier has submitted the inspection application and the required accompanying fees, but the department is unable to complete the inspection within the 25-month inspection period, then no additional fee shall be required for the inspection requested in the original application.

(3) All fees collected pursuant to this subdivision shall be deposited in the Motor Vehicle Account in the State Transportation Fund. An amount equal to the fees collected shall be available for appropriation by the Legislature from the Motor Vehicle Account to the department for the purpose of conducting truck terminal inspections and for the additional roadside safety inspections required by Section 34514.

(4) To avoid the scheduling of a renewal terminal inspection pursuant to this section during a carrier's seasonal peak business periods, the current inspection term of a terminal that has paid all required fees and has been rated satisfactory in its last inspection may be reduced by not more than nine months if a written request is submitted by the carrier to the department at least four months prior to the desired inspection month, or at the time of payment of renewal inspection fees in





compliance with paragraph (2), whichever date is earlier. A motor carrier may request this adjustment of the inspection term during any inspection cycle. A request made pursuant to this paragraph shall not result in a fee proration and does not relieve the carrier from the requirements of paragraph (2).

(f) It is unlawful for a motor carrier to operate any vehicle subject to this section without having submitted an inspection application and the required fees to the department as required by subdivision (e) or (h).

(g) It is unlawful for any motor carrier to operate any vehicle subject to this section after submitting an inspection application to the department, without the inspection described in subdivision (d) having been performed and a safety compliance report having been issued to the motor carrier within the 25-month inspection period or within 60 days immediately preceding the inspection period.

(h) (1) Any inspected terminal that receives an unsatisfactory compliance rating shall be reinspected within 120 days after the issuance of the unsatisfactory compliance rating.

(2) A terminal's first required reinspection under this subdivision shall be without charge unless one or more of the following is established:

(A) The motor carrier's operation presented an imminent danger to public safety.

(B) The motor carrier was not in compliance with the requirement to enroll all drivers in the pull notice program pursuant to Section 1808.1.

(C) The motor carrier failed to provide all required records and vehicles for a consolidated inspection pursuant to subdivision (b).

(3) If the unsatisfactory rating was assigned for any of the reasons set forth in paragraph (2), the carrier shall submit the required fee as provided in paragraph (4).

(4) Applications for reinspection pursuant to paragraph (3) or for second and subsequent consecutive reinspections under this subdivision shall be accompanied by the fee specified in paragraph (1) of subdivision (e) and shall be filed within 60 days of issuance of the unsatisfactory compliance rating. The reinspection fee is nonrefundable.

(5) When a motor carrier's Motor Carrier of Property Permit or Public Utilities Commission operating authority is suspended as a result of an unsatisfactory compliance rating, the department shall conduct no reinspection until requested to do so by the Department of Motor Vehicles or the Public Utilities Commission, as appropriate.

(i) It is the intent of the Legislature that the department make its best efforts to inspect terminals within the resources provided. In the interest of the state, the Commissioner of the California Highway Patrol may



extend for a period not to exceed six months the inspection terms beginning prior to July 1, 1990.

(j) To encourage motor carriers to attain continuous satisfactory compliance ratings, the department may establish and implement an incentive program consisting of the following:

(1) After the second consecutive satisfactory compliance rating assigned to a motor carrier terminal as a result of an inspection conducted pursuant to subdivision (d), and after each consecutive satisfactory compliance rating thereafter, an appropriate certificate, denoting the number of consecutive satisfactory ratings, shall be awarded to the terminal, unless the terminal has received an unsatisfactory compliance rating as a result of any inspection conducted in the interim between the consecutive inspections conducted under subdivision (d), or the motor carrier is rated unsatisfactory by the department following a controlled substances and alcohol testing program inspection. The certificate authorized under this paragraph shall not be awarded for performance in the administrative review authorized under paragraph (2). However, the certificate shall include a reference to any administrative reviews conducted during the period of consecutive satisfactory ratings.

(2) Unless the department's evaluation of the motor carrier's safety record indicates a declining level of compliance, a terminal that has attained two consecutive satisfactory compliance ratings assigned following inspections conducted pursuant to subdivision (d) is eligible for an administrative review in lieu of the next required inspection, unless the terminal has received an unsatisfactory compliance rating as a result of any inspection conducted in the interim between the consecutive inspections conducted under subdivision (d). An administrative review shall consist of all of the following:

(A) A signed request by a terminal management representative requesting the administrative review in lieu of the required inspection containing a promise to continue to maintain a satisfactory level of compliance for the next 25-month inspection term.

(B) A review with a terminal management representative of the carrier's record as contained in the department's files. If a terminal has been authorized a second consecutive administrative review, the review required under this subparagraph is optional, and may be omitted at the carrier's request.

(C) Absent any cogent reasons to the contrary, upon completion of the requirements of subparagraphs (A) and (B), the safety compliance rating assigned during the last required inspection shall be extended for 25 months.

(3) Not more than two administrative reviews may be conducted consecutively. At the completion of the 25-month inspection term

following a second administrative review, a terminal inspection shall be conducted pursuant to subdivision (d). If this inspection results in a satisfactory compliance rating, the terminal shall again be eligible for an administrative review in lieu of the next required inspection. If the succession of satisfactory ratings is interrupted by any rating of other than satisfactory, irrespective of the reason for the inspection, the terminal shall again attain two consecutive satisfactory ratings to become eligible for an administrative review.

(4) As a condition for receiving the administrative reviews authorized under this subdivision in lieu of inspections, and in order to ensure that compliance levels remain satisfactory, the motor carrier shall agree to accept random, unannounced inspections by the department.

SEC. 6. The Department of the California Highway Patrol, in consultation with the Department of Toxic Substances Control, shall prepare a report on the feasibility and cost-effectiveness of requiring all commercial motor vehicles required to display warning placards when transporting any amount of explosives, radiological materials, poisonous materials, or extremely hazardous waste to be equipped with global positioning devices. The completed report shall be submitted to the Chief Clerk of the Assembly and the Secretary of the Senate no later than July 1, 2004.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

